

(2) If a performer's Category 4 value is greater than 10 percent of the performer's total value, the funds in excess of the 10 percent will be redistributed to Category 3.

(3) The optional RD6 will be removed as it was required to value Category 4 at the 15 percent maximum in DYs 3-5.

§354.1669. Requirements for Combining Certain DSRIP Projects.

(a) Certain DSRIP projects may be eligible to combine based on performer requests to combine. These DSRIP projects must:

- (1) be eligible to continue into the extension period;
- (2) not exceed a DY6A value of \$5 million when combined; and
- (3) be one of the following:

(A) cross-regional community mental health center DSRIP projects;

(B) similar DSRIP projects by the same performer; or

(C) similar DSRIP projects by different performers within the same health system.

(b) HHSC will combine these DSRIP projects' total QPI metrics, MLIU QPI metrics, and MLIU QPI goals, as well as their pre-DSRIP baselines, into:

- (1) one total QPI milestone and goal;
- (2) one MLIU QPI milestone and goal; and
- (3) one pre-DSRIP baseline for each.

§354.1671. DSRIP Requirements for Uncompensated Care Hospitals.

An Uncompensated Care hospital must participate in an annual learning collaborative and report on mandatory Category 4 domains as described in §354.1633(e)(1) of this subchapter (relating to DSRIP Requirements for Performers).

§354.1673. Remaining DSRIP Funds.

The funds in the DSRIP pool not allocated to DSRIP projects for DY6A will be reallocated.

(1) Funds are reallocated to increase the performer's total value to up to \$250,000 per each subsequent demonstration year (DY) beginning in DY6A. Such an increase is only available to performers who have DSRIP projects totaling less than \$250,000.

(2) The anchor of an RHP is allocated the greater of RHP allocation as defined in 354.1634(b) of this subchapter (relating to Waiver Pool Allocation) multiplied by \$20 million or the following minimum allocations.

(A) A Tier 1 RHP anchor has no minimum DY6A allocation.

(B) A Tier 2 RHP anchor has no minimum DY6A allocation.

(C) A Tier 3 RHP anchor has a minimum DY6A allocation of \$1,250,000.

(D) A Tier 4 RHP anchor has a minimum DY6A allocation of \$625,000. A Tier 4 RHP's minimum DY6A allocation may be increased to \$800,000 if the anchor meets the requirements described in §354.1675(1) of this division (relating to Anchor Requirements).

(3) The DY6A anchor allocation is in lieu of the anchor administrative payment.

§354.1675. Anchor Requirements.

To receive its DY6A anchor payment, an anchor must comply with the requirements in this section.

(1) An anchor must submit a DY6A learning collaborative plan in accordance with the PFM Protocol, if it is the anchor of a Tier 1, 2, or 3 region or it is the anchor of a Tier 4 region that wishes to receive the enhanced allocation.

(A) The DY6A learning collaborative plan, at a minimum, must include an annual regional learning collaborative. The learning collaborative must include a focus on DSRIP integration into Medicaid managed care, value-based purchasing, alternative payment models, or sustainability strategies for low-income uninsured. The anchor could also meet this requirement through a workgroup that would be in addition to the annual regional learning collaborative.

(B) Two or more regions may work together to submit a cross-regional DY6A learning collaborative plan.

(2) An anchor must conduct an extension stakeholder engagement forum to promote collaboration in the next phase of the waiver and community goals. The feedback from this forum should be used to inform the learning collaborative plan for DY6B and beyond. The anchor must post a copy of the updated RHP plan on the RHP's website prior to the extension stakeholder engagement forum.

(3) An anchor must submit the following information in accordance with the PFM Protocol:

(A) the region's community needs assessment that was submitted with the original RHP plan in 2012 that has been updated as appropriate to reflect major changes, including changes to the priority needs;

(B) a description of the process used to update the region's community needs assessment, including the process used to obtain stakeholder feedback; and

(C) the RHP plan that was submitted in 2012 that has been updated for DY6B onward. This updated RHP plan will include next steps for DSRIP projects as agreed upon by HHSC and CMS that would occur beginning in DY6B.

(4) An anchor must submit documentation in accordance with the PFM Protocol that demonstrates that the anchor implemented the DY6A learning collaborative plan and conducted an extension stakeholder engagement forum.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on July 18, 2016.

TRD-201603535

Karen Ray
Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: August 28, 2016

For further information, please call: (512) 424-6900

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TITLE 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

CHAPTER 7. PESTICIDES
SUBCHAPTER H. STRUCTURAL PEST
CONTROL SERVICE
DIVISION 1. GENERAL PROVISIONS
4 TAC §7.115

The Texas Department of Agriculture (the Department) proposes new Texas Administrative Code (TAC), Title 4, Part 1, Chapter 7, Subchapter H, Division 1, §7.115, Structural Pest Control Enforcement, relating to penalties for violations of Subchapter H. The penalties set forth in the attachment to §7.115, the Penalty Matrix (Matrix), are created to deter conduct detrimental to public health and safety, the environment, and consumer confidence and to prevent unfair competition by noncompliant businesses. The proposed rule promotes transparency in the Department's regulatory efforts to protect Texas consumers, and provides notice to regulated persons and businesses subject in accordance with Chapter 1951 of the Texas Occupations Code (Code).

Chapter 1951 of the Code authorizes the Department to regulate certain structural pest control activities in this state. The Department's regulatory goals are to provide consumers and businesses with a fair and efficient trade environment, to encourage business development, to inspire consumer confidence, and to protect human health and safety, the environment, and the real and personal property of consumers. To achieve these goals, the Department has rulemaking authority under Chapter 12 of the Texas Agriculture Code to prescribe and assess administrative penalties to enforce structural pest control laws and regulations through routine and risk-based inspection programs, complaint investigations, and other regulatory activities involving pest control in and around structures such as homes, commercial buildings, apartments, schools, and workplaces.

As part of its ongoing commitment to consumer protection, the Department has proposed §7.115 to encourage consistent, uniform, and fair assessment of penalties by the Department for violations of Chapter 7 of TAC, Title 4. Prior to proposal of this rule, the Department sought and received input from the Structural Pest Control Advisory Committee, which includes members of the structural pest control industry. Those suggestions and input have been taken under consideration in the development of the Matrix.

Under §12.020(d) of the Agriculture Code, all penalties assessed by the Department shall be individualized to the specific nature, circumstances, extent, and gravity (NCEG) the hazard or potential hazard (HPH) of the violation, as well as other factors related to the violation or violator, when appropriate.

The Department may settle violations, as deemed appropriate, through various means including, but not limited to, negotiation or deferment of penalties, probation, required continuing education, license limitations, or other appropriate lawful means, subject to approval of the Commissioner, on a case-by-case basis. All decisions made by the Department related to violations of Subchapter H are based on current circumstances, including extant information, laws.

The proposed attachment and §7.115 may be reviewed and revised from time to time. This Matrix shall be effective immediately upon adoption and shall supersede the current "Structural Pest Control Service Penalty Guidelines and Penalty Matrix" which was previously published by the Department in the June 14, 2013, issue of the *Texas Register* (TRD-201302239).

Leslie Smith, Director for Consumer Service Protection, has determined that for the first five years there will be no fiscal implications for state or local governments as a result of the proposal.

Ms. Smith has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the increased deterrence of violations of Chapter 7, related to structural pesticide controls by licensed and unlicensed individuals. Currently the penalty Matrix is in effect and provides for economic penalties for those individuals who are subject to and violate Chapter 7, Subchapter H of TAC, Title 4. Therefore, the only economic impact on micro-businesses, small businesses or individuals subject to Chapter 7, Subchapter H, will be possible increased penalties related to those new categories within the Matrix.

Written comments on the proposal may be submitted for 30 days following publication of this proposal to Leslie Smith, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711 or by email at Leslie.Smith@TexasAgriculture.gov.

The new rule is proposed under Chapter 12 of the Texas Agriculture Code, which authorizes the Department to prescribe and assess administrative penalties to enforce structural pest control laws and regulations, and Chapter 1951 of the Occupations Code, which authorizes the Department to regulate certain structural pest control activities in this state.

The proposal is made under Chapter 12 of the Texas Agriculture Code and Chapter 1951 of the Occupations Code.

§7.115. Structural Pest Control Enforcement.

The Department has established the following schedule of disciplinary sanctions for violations of Subchapter H, related to Structural Pest Control Service.

Figure: 4 TAC §7.115

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on July 18, 2016.

TRD-201603544

Jessica Escobar

Assistant General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: August 28, 2016

For further information, please call: (512) 463-4075



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 102. EDUCATIONAL PROGRAMS
SUBCHAPTER EE. COMMISSIONER'S RULES
CONCERNING PILOT PROGRAMS

19 TAC §102.1058

The Texas Education Agency (TEA) proposes new §102.1058, concerning the reading excellence team pilot program. The proposed new section would implement the requirements of the Texas Education Code (TEC), §28.0061, as added by Senate Bill (SB) 935, 84th Texas Legislature, Regular Session, 2015.

**Texas Department of Agriculture
Structural Pest Control Service
Penalty Matrix**

Tables S1, S2, and S3 represent the Hazard or Potential Hazard (HPH) associated with the noncompliance issues listed throughout the Structural Pest Control Penalty Matrix (matrix). Within the tables, the Minor, Moderate, or Major designations take into consideration the Nature, Circumstances, Extent, and Gravity (NCEG) of the situation, which resulted in the noncompliant finding.

*The tables show the maximum penalties that may be imposed for a given violation. All penalties are up to the designated amount/penalty indicated and shall be determined by the Department at its discretion.

Table S1 – Low Hazard Potential*

	Minor	Moderate	Major
1 st Violation	Warning	\$150	\$300
2 nd Violation	\$150	\$300	\$450
3 rd & subsequent violations	\$300	\$450	\$600

Table S2 – Moderate Hazard Potential*

	Minor	Moderate	Major
1 st Violation	\$300	\$750	\$1500
2 nd Violation	\$500	\$1000	\$2000
3 rd & subsequent violations	\$750 Revocation/Suspension	\$1500 Revocation/Suspension	\$3000 Revocation/Suspension

Table S3 – High Hazard Potential*

	Minor	Moderate	Major
1 st Violation	\$500	\$1000	\$2000
2 nd Violation	\$1000	\$2000	\$4000
3 rd & subsequent violations	\$1500 Revocation/Suspension	\$3000 Revocation/Suspension	\$5000 Revocation/Suspension

Table S4 – Maximum Hazard Potential*

	Minor	Moderate	Major
1 st Violation	\$1000	\$1500	\$2000
2 nd Violation	\$2000	\$2500	\$3000
3 rd & subsequent violations	\$3000 Revocation/Suspension	\$4000 Revocation/Suspension	\$5000 Revocation/Suspension

ALL ACTIONS IN RESPONSE TO NONCOMPLIANCE WITH CHAPTER 7, SUBCHAPTER H OF THE TEXAS ADMINISTRATIVE CODE ARE AUTHORIZED UNDER CHAPTER 12 OF THE TEXAS AGRICULTURE CODE.

Violation	Texas Administrative Code Section Number(s)	Table Violation
DIVISION 2—LICENSES		
Operating without a license	7.121	S4
No known address or incorrect address for business/noncommercial	7.122	S1
Insurance lapse/No insurance	7.123	S3
Cheating/unauthorized assistance on exams	7.125(10)-(15)	S3
Failure to notify change of address: Business/Noncommercial	7.126(e); 7.161(17)	S1
Failure to notify change of employers- Certified applicator/technician	7.126 / 7.142	S1
Failure to notify of loss of responsible certified applicator	7.128	S2
Non-commercial doing business as commercial or more than one employer without additional license(s)	7.131	S3
Refusal to release training records on employment change	7.133(j)	S1
Performing work w/out supervision in a category an apprentice is not properly trained in 7.133(h)	7.133(h)	S3
Failure to maintain technician and/or apprentice training records	7.133	S2
Failure to meet minimum continuing education/technician requirements	7.133(h)/7.134(b)	S2
DIVISION 3—COMPLIANCE AND ENFORCEMENT		
No TPCL numbers or magnetic numbers on vehicle	7.141	S1
Failure to register an employee	7.142(b)	S2
Failure to supervise an employee	7.143/7.133	S3
Use records incomplete	7.144	S1
Failure to maintain use records	7.144	S2
No business name, location address or mailing address, business license number (TPCL), or telephone number on contracts	7.145	S1
No business name, business license number and letter, location or mailing address, telephone number, or statement that the business is licensed and regulated by the Texas Department of Agriculture on a contract, warranty, termite disclosure document or guarantee (or incomplete/incorrect)	7.145(a); 7.161(16)	S1
Failure to post/provide a pest control sign	7.146	S1
Failure to provide consumer information sheet	7.147	S1
Failure to make consumer information sheet available upon request	7.147	S1
Failure of school or daycare to notify parents	7.148	S1
Failure to maintain emergency waivers	7.148(d)	S1
Failure of apartment management or employers to post notice and provide consumer information sheets	7.148	S1
Use inconsistent with labeling	7.150	S3
Any FIFRA violation--unlabeled container	7.151	S3
Any violation of label instructions regarding storage or disposal	7.151	S3
Advertising violations	7.152	S3
Failure to cooperate/allow inspection or provide information/records or providing false information	7.156	S3

DIVISION 4—UNLAWFUL ACTS AND GROUNDS FOR REVOCATION		
Misrepresentation, deceit, or fraud for the purpose of inducing others to act thereon to their damage	7.161(1)	S4
Operating out of category	7.161(10)	S3
Misrepresentation in any application for license	7.161(2)	S4
Any violation of the label which causes environmental problem	7.161	S4
Working in a manner which could be injurious	7.161(8)	S3
Use of cancelled or unregistered pesticides not approved under Texas Agriculture Code §76.041	7.161(12)	S3
Failure to surrender license as Department ordered	7.162	S3
DIVISION 5—TREATMENT STANDARDS		
Application/service performed inconsistent with treatment disclosure	7.172(c)	S2
Post-construction treatment at less than label volume/rate	7.172(a)	S3
Failure to post WDIR/Termite Post-Treatment Sticker	7.172(d) and 7.177	S2
Pre-construction treatment made at less than label volume/rate	7.173(b)	S3
Failure to provide SPCS/D-2 form	7.174(b)(8)	S2
Incomplete termite treatment disclosure documents/termite disclosure document violations	7.174	S2
Apprentice performing WDI Report	7.175(a)	S3
Failure to provide accurate/incomplete WDIR Inspection	7.175	S2
Any fumigation violation besides label violations	7.178	S3
DIVISION 7—INTEGRATED PEST MANAGEMENT PROGRAM FOR SCHOOL DISTRICTS		
Any violation regarding IPM Program essential elements	7.201	S2
Failure to comply with IPM in schools	7.201	S2
Making a pesticide application inconsistent with pesticide use in schools	7.202	S3
OTHER VIOLATIONS		
First time (and subsequent) offenders that operate without the proper license after a demonstration of prior knowledge of the SPCS requirements. (Not including late renewal)		S4
Fraud		S4
Grossly negligent or intentional poisoning of a person or animal		S4
Repetitive or unreasonable refusal to allow the Department to exercise its legal authority to inspect licensees and/or investigate complaints		S4
Violations involving institutional disregard for compliance		S4